

The Honorable Ricardo S. Martinez

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

NORTHWEST ENVIRONMENTAL)
ADVOCATES,)
)
Plaintiff,)
)
v.)
)
UNITED STATES ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Defendant,)
and)
)
NORTHWEST PULP & PAPER ASS'N,)
et al.)
)
Defendant-Intervenors.)

No. 2:14-cv-0196-RSM

JOINT STATUS REPORT, STIPULATED
MOTION AND ORDER FOR A 34-DAY
EXTENSION UNTIL NOVEMBER 19, 2021

Notice on Motion Calendar: October 14, 2021

Defendant United States Environmental Protection Agency (EPA) and Plaintiff
Northwest Environmental Advocates (NWEA), by and through their respective attorneys, submit
this joint status report as required by the Court's Order Granting Stay Pending Voluntary
Reconsideration, dated October 17, 2018 (Dkt. 95) ("Order"). In addition, EPA requests a 34-

1 day extension of the October 16, 2021 date in the Court's Order (Dkt. 95 ¶ 3), until November
2 19, 2021, to complete its reconsideration of the outstanding actions subject to that Order.

3 NWEA stipulates to this requested relief, and counsel for the intervenors in this case (State of
4 Washington Department of Ecology, Washington Cattlemen's Association, Northwest Pulp and
5 Paper Association, Washington Forest Protection Association, and American Forest Resource
6 Council) have authorized the undersigned counsel for EPA to represent that they do not oppose
7 this requested relief.

8 The grounds for this Status Report and Motion are as follows:

9 1) As explained in the previously filed Unopposed Joint Motion for a Stay of
10 Proceedings Pending Voluntary Reconsideration, EPA is reconsidering administrative actions
11 challenged in this case, Dkt. 94 ¶ 3; at the time of the Unopposed Joint Motion, EPA expected
12 that the reconsideration process could take three years, *id.*; and, upon completion of that process,
13 the claims in this action may be rendered moot, *id.* ¶ 4. The Order granted that Motion and
14 directed the parties to file a status report every 180 days, stating any relevant changes in the case
15 and explaining whether the stay should continue. Dkt. 95 ¶ 5.

16 2) As explained in more detail in the Unopposed Joint Motion, EPA is reconsidering
17 certain submittals by the State of Washington to evaluate whether the submittals are water
18 quality standards that should be approved or disapproved under Clean Water Act (CWA) Section
19 303(c), 33 U.S.C. § 1313(c), or to determine that certain state provisions are not water quality
20 standards subject to review and approval or disapproval by EPA under CWA Section 303(c).

21 3) EPA has completed its administrative reconsideration of six of the submittals
22 under review pursuant to the Unopposed Joint Motion and the Court's Order. That Motion and
23 the Order anticipated that EPA would complete its review of all the submittals by October 16,
24 2021. The Order provides that, for a subject action for which EPA has not completed its review
25 by October 16, 2021, Plaintiff may file a motion to lift the stay of this case and request a briefing
26 schedule for the adjudication of the claim corresponding to that action. Dkt. 95 ¶ 3.

1 4) EPA is currently undertaking the final analysis and review necessary before it can
2 complete its reconsideration of the outstanding seven submittals, but requires an additional 34
3 days, until November 19, 2021, to complete that process. The outstanding seven submittals are
4 provisions concerning Washington's "natural conditions criteria" and EPA expects to complete
5 reconsideration of these seven submittals at the same time. This additional time is needed for
6 EPA to finalize the decision document for the proposed action, to complete briefing for EPA
7 management, including recently installed EPA officials, and to obtain final approvals and
8 signature. Accordingly, EPA requests an extension of the October 16, 2021 date in the Order,
9 Dkt. 95 ¶ 3, to November 19, 2021.

10 5) In accordance with the Order, after EPA completes its administrative
11 reconsideration of the subject actions, the parties will file an appropriate motion or motions
12 seeking dismissal of the case or otherwise explaining why dismissal is not appropriate.

13 Accordingly, EPA requests that the Court extend the October 16, 2021 date in Paragraph
14 3 of its Order (Dkt. 95), by 34 days, until November 19, 2021.

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16 IT IS SO ORDERED this 19th day of October, 2021.

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20 RICARDO S. MARTINEZ
21 CHIEF UNITED STATES DISTRICT JUDGE
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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on October 14, 2021, I electronically filed the foregoing filing with the Clerk of the Court using the CM/ECF system, which will send notification of such to the attorneys of record.

/s/ David Kaplan